

METROPOLITAN POLICE DEPARTMENT

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Chief of Police, pursuant to section 1102(f) of the Detective Adviser Act of 2004 (Act), effective September 30, 2004 (D.C. Law 15-194, D.C. Official Code § 5-129.31(f) (March 2005 Supp.)), and Mayor's Order 05-99, dated June 14, 2005, hereby gives notice of the adoption of the following rules governing the selection standards for detective advisers. Without these emergency rules, the Metropolitan Police Department would be unable to hire and assign to duty qualified individuals needed to provide crucial assistance and leadership to the Department's investigative personnel. Therefore, to ensure the preservation of the public safety and welfare, the Chief of Police took action on June 23, 2005 to adopt the following rules on an emergency basis effective that date. The emergency rules will remain in effect until October 21, 2005, or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first. The Chief of Police also gives notice of intent to take final rulemaking action to adopt these rules in not less than thirty (30) days.

These emergency amendments, requiring consideration of a detective adviser applicant's disciplinary history, physical and mental health, and past job performance with the Metropolitan Police Department, will create new sections 111 through 116 in Title 6A, Police Personnel, of the District of Columbia Municipal Register (DCMR).

Title 6A DCMR, "Police Personnel" is amended by adding new sections 111 through 116 to read as follows:

- 111 Establishment Of Temporary Excepted Service Position Of "Detective Adviser"**
- 111.1 Pursuant to the Detective Adviser Act of 2004 (Detective Advisor Act), effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-129.31), there is hereby established within the Metropolitan Police Department the temporary full-time or part-time position of "Detective Adviser" subject to the rules of the Excepted Service of the District of Columbia Government, except as specified in these rules or otherwise required by law or regulation.
- 111.2 Except for disability annuitants, police officers who have previously served as detectives with the Metropolitan Police Department and who have retired in good standing from the Metropolitan Police Department shall be eligible for rehire to the position of Detective Adviser at the discretion of the Chief of Police.
- 111.3 A retired police officer rehired under these rules shall not incur annuitant liability for salary earned from the District of Columbia Government, nor jeopardize his/her retirement benefits.
- 111.4 Service as a Detective Adviser shall not count as creditable service for the purposes of section 12(c) of An Act Making appropriations to provide for the expenses of the Government of the District of Columbia for the fiscal year ending June thirteenth,

nineteen hundred and seventeen, and for other purposes (Police and Firemen's Retirement and Disability Act), approved September 1, 1916 (39 Stat. 718; D.C. Official Code § 5-704) or have any negative impact on the unfunded liability of the D.C. Police Officers and Fire Fighters' Retirement Fund.

111.5 Detective Advisers shall have no police powers.

111.6 If authorized by and qualified under § 3(a) of the Law Enforcement Officers Safety Act of 2004, approved July 22, 2004 (118 Stat. 865; 18 U.S.C. § 926(c)), a Detective Adviser may, at the discretion of the Chief of Police, carry a concealed firearm in accordance with Department guidelines.

111.7 A Detective Adviser shall be equivalent in rank to a Detective Grade I.

112 Eligibility For Employment

112.1 A former police officer shall have been retired for at least six (6) months and less than five (5) years at the time of application in order to be eligible for appointment to the position of Detective Adviser.

112.2 Police officers retired at any rank shall be eligible for appointment to the position of Detective Adviser.

112.3 All candidates shall meet appropriate physical, psychological and psychiatric standards for civilian employees.

112.4 All candidates shall be subject to a thorough drug screening and shall have a valid driver's license.

112.5 All candidates shall be subject to an updated background investigation and a review of their past employment record by the Chief of Police or designee.

112.6 The Chief of Police, or designee, shall consider an applicant's disciplinary history and past job performance with the Metropolitan Police Department.

112.7 Qualified candidates may be placed on a register for prospective employment.

112.8 In the best interest of the department and when circumstances warrant, the Chief of Police may, at his discretion, waive or vary the application of any of these rules not otherwise required by law or regulation.

113 Salary Entitlements And Limitations

113.1 Detective Advisers shall be paid at the fifth step of the current Class 3 (Detective) schedule.

113.2 Detective Advisers shall be entitled to shift differentials, overtime pay, holiday pay and other leave benefits on the same terms as other excepted service civilian employees.

113.3 Detective Advisers shall not be entitled to longevity pay or Base Retention Differential (BRD) pay.

114 Terms And Conditions

114.1 All Detective Adviser appointments shall be for a term of thirteen (13) months, renewable for subsequent terms upon 60 days notice.

114.2 Prior service shall be counted for purposes of determining the rate of accrual of sick leave or annual leave.

114.3 All assignments of Detective Advisers are at the full discretion of the Chief of Police in keeping with the purpose and intent of the Detective Adviser Act.

114.4 The first priority to be observed in the assignment of Detective Advisers is for investigative services and to assist in the training and mentoring of new detectives.

114.5 Part-time employment is defined, for the purposes of these rules, as the availability of an employee to work an established work week of either a minimum of three 8-hour shifts (24 hours total) or a minimum of five 4-hour shifts (20 hours total).

114.6 Detective Advisers working as part-time employees shall accrue sick leave or annual leave on a pro-rata basis.

114.7 Detective Advisers shall not be entitled to promotions or step increases.

114.8 Detective Advisers shall be subject to such training as deemed necessary by the Chief of Police to prepare them for appropriate duties and functions in keeping with the purpose and intent of the Detective Adviser Act and these rules.

114.9 Detective Advisers shall be subject to the same disciplinary standards as other civilian excepted service employees.

114.10 Detective Advisers shall not be detailed to any agency of the District of Columbia government other than the Metropolitan Police Department.

115 Collective Bargaining Rights

115.1 As excepted service employees, Detective Advisers shall have no collective bargaining rights.

115.2 Detective Advisers, as temporary excepted service employees, shall not be entitled to any rights and/or privileges that exceed or are in conflict with the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (DCGCMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*) the Detective Adviser Act, these rules, or any other applicable rules of the D.C. Office of Personnel governing temporary full-time or part-time workers.

116 Other Benefits And Services

116.1 Detective Advisers shall not earn or become entitled to additional benefits of any kind under the various provisions of the Police and Firefighters Retirement and Disability Act, as codified at D.C. Official Code § 5-741 *et seq.*, as a result of their employment as Detective Advisers.

116.2 Detective Advisers shall be subject to Social Security deductions under the Federal Insurance Contributions Act of 1954, 26 U.S.C. 3101 *et seq.* (FICA).

116.3 Detective Advisers injured as a result of or in the course of their employment will be subject to Disability Compensation pursuant to section 2301 *et seq.* of the DCGCMPA D.C. Official Code § 1-623.01 *et seq.*

116.4 Survivor(s) of a Detective Adviser who dies as a result of or in the course of their employment shall not be entitled to the lump sum payment provided pursuant to section 12(k) of the Police and Firefighters Retirement and Disability Act, D.C. Official Code § 5-716.

116.5 Detective Advisers shall not be entitled to accrue non-performance-of-duty, or Performance of Duty disability benefits under either sections 12(f) or 12(g) of the Police and Firefighters Retirement and Disability Act, D.C. Official Code §§ 5-709 or 5-710.

116.6 Detective Advisers shall not receive treatments and services from the Police and Fire Clinic and the Medical Services Division.

116.7 Detective Advisers shall be entitled to health and other similar benefits on the same basis as permanent employees in the Excepted Service.

Comments on these proposed amendments should be submitted, in writing, to Terrence D. Ryan, General Counsel, Metropolitan Police Department, Room 4125, 300 Indiana Avenue NW, Washington, D.C. 20001, within thirty (30) days of the date of the publication of this notice in the D.C. Register. Additional copies of these proposed amendments are available from the above address.